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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/820,370	03/11/2001	Craig Schmidt	020431.0973	2848

7590 03/21/2007  
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EXAMINER
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AKINTOLA, OLABODE

ART UNIT	PAPER NUMBER
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3691

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	03/21/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

# Office Action Summary

Application No.

09/820,370

Applicant(s)

SCHMIDT, CRAIG

Examiner

Olabode Akintola

Art Unit

3691

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS; WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 18 January 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application
- ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 1/18/2007 has been entered.

### ***Claim Objections***

Claims 1-16 are objected to because of the following informalities: providing a *buyers* reserve price..." should be "providing a **buyer's** reserve price". Similarly providing a *sellers* reserve price..." should be "providing a **seller's** reserve price". Some of the other claims have similar errors.

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-16 are rejected under 35 U.S.C. 102(b) as being anticipate by Lupien et al (US 5689652).

With regards to Claims 1 and 13, Lupien teaches a method and system for optimizing prices at which products are sold in an automated marketplace, comprising the steps of: generating a matrix of all possible buyers and sellers for a product; for each buyer, providing a buyer reserve price corresponding to a maximum purchase price (col. 6, lines 23-29); for each seller, providing a sellers reserve price corresponding to a minimum sales price (see col. 5, line 66 through col. 6, line 4; Col. 11, lines 55-65; Col. 12, lines 1-14); calculating a utility value for each pairing of buyers and sellers; selecting a unique pairing of buyers and sellers that maximizes total utility (Fig. 8 RN {108}, col. 10, line 54-col. 11, line 18); calculating a buyer optimal allocation of the total utility for all buyers and sellers in a stable manner; calculating a seller optimal allocation of the total utility for all buyers and sellers in a stable manner (see Col 6, lines 11-38, col. 9, lines 20-30, Fig. 8 RN{108}); and for each pair in the unique pairing, selecting a transaction price that allocates the utility between that seller and that buyer (see Col. 4, lines 10-27)

With regards to Claim 2, Lupein teaches the step of providing the buyers reserve price for each buyer comprising the step of: for each buyer, providing the buyers reserve price corresponding to a maximum purchase price, wherein at least one buyer limits the sellers to which the buyer agrees to be matched to a subset less than all possible sellers (see Col. 6, lines 23-29; Col. 9, lines 31-40).

With regards to Claims 4, Lupein teaches the step of providing the sellers reserve price for each seller comprising the step of: for each buyer, providing the sellers reserve price corresponding to a minimum sales price, wherein at least one seller limits the buyers to which the seller agrees to be matched to a subset less than all possible sellers (see Col. 5, lines 65+; Col. 9, lines 31-40).

With regards to Claims 3 and 14, Lupein teaches that each buyer sets the buyers reserve price for each possible seller with whom that buyer agrees to be matched, and wherein the buyers reserve price can be different for each such seller (see Col. 6, lines 23-29).

With regards to Claims 5 and 15, Lupein teaches that each seller sets a particular sellers reserve price for each possible buyer with whom that seller agrees to be matched, and wherein the particular sellers reserve price can be different for each such buyer (see Col. 5, lines 65+).

With regards to claims 6 and 16, Lupein teaches the steps wherein the utility value calculated for each pairing of a buyer and a seller is a difference between that buyers reserve price and that sellers reserve price (see Col. 6, lines 23-29).

With regards to Claims 7-10, Lupien teaches the step of selecting a transaction price comprises the steps of: providing a proportion value between 0 and 1; and selecting a transaction price which is proportional to a difference between the optimized seller utility and the optimized buyer utility equal to the proportion value (see Col. 5, lines 61+; Col. 6, lines 23-29).

With regards to Claim 11, Lupien teaches the step of conducting product transactions at the selected transaction prices (see Col. 4, lines 10-27).

With regards to Claim 12, Lupien teaches that the buyers and sellers provide their respective reserve prices by communicating them to a central marketplace server (see Col. 4, lines 6-9).

### ***Response to Arguments***

Applicant's arguments filed 1/18/2007 have been fully considered but they are not persuasive. The applicant states that Lupien fails to teach actual minimum sales price and maximum purchase price. The Examiner disagrees. Lupien discloses this step in col. 5, lines 65-col. 6, line 1 "*but under no circumstances is willing to sell any quantity at \$70.25*" (this corresponds to seller's minimum sales price). Similarly, in col. 6, lines 22-24, "*but under no circumstances is willing to buy any quantity at \$24*" (this corresponds to buyer's maximum purchase price).

Also, applicant states that Lupien fails to teach "calculating a utility value for each pair", "selecting a unique pairing of buyers and sellers that maximizes total utility" and "selecting a transaction price that allocates the utility between the seller and the buyer". Examiner respectfully disagrees. Fig. 8 RN {108} of Lupien depicts "*calculate all mutual satisfaction cross products*". Also see col. 10, line 54-col. 11, line 18. The mutual satisfaction cross product disclosed in Lupien is a function of quantity and price.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Olabode Akintola whose telephone number is 571-272-3629.

The examiner can normally be reached on M-F 8:30AM -5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

OA



**HANI M. KAZIMI**  
**PRIMARY EXAMINER**